



U.S. Patent Application 08/368,378 filed January 14, 1995, which is a continuation-in-part of
U.S. Patent Application 08/124,292 filed on September 20, 1993-- .

In the Claims:

Kindly amend claims 3 and 11 as follows:

(3) (AMENDED) A method of claim 1, which causes minimum [little or no serious] liver damage, uric acid increases or elevations in fasting glucose levels.

(11)(Amended) A method, as set forth in Claim 10 [11], wherein the amount of nicotiny alcohol tartrate is from about 100 milligrams to about 500 milligrams per dosage unit.

Remarks

In view of the amendments made herein to claims 3 and 11 and the specification, Applicant respectfully submits that the Examiner's previous rejection of all claims is no longer applicable and, therefore, should be discontinued.

Applicant respectfully traverses the Evenstad anticipatory rejections. Evenstad simply discloses a formulation without any reference to any kind of utility as to hyperlipidemic treatment whatsoever. It is therefore respectfully submitted that Evenstad cannot be an anticipatory reference.

O'Neill likewise cannot be an anticipatory reference under §102(e) in view of the declarations filed in the parent and grand parent cases, which have removed O'Neill as an anticipatory reference under §102(e).

As to the Examiner's §103 rejections, the combination created by the Examiner must fail for several reasons, including for the same reason that O'Neill fails under §102(e).

It is therefore respectfully submitted that the claims, as now amended herein, overcome the Examiner's rejection raised in the Office Action dated October 3, 2000. It is also respectfully submitted that all presently pending claims are patentably distinct over the disclosures of record when the disclosures are considered either alone under 35 U.S.C. §102